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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter Of:

HEAR-IT-NOW Petition for Rulemaking

Section 68.4 of the Commission's Rules

Hearing Aid-Compatible Telephones

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RM-8658

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COMMENTS OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA")¹ herewith submits its comments on the above-captioned Petition for Rulemaking by Hear-It-Now ("HIN"). In its petition, HIN seeks to have the Commission initiate a rulemaking to "specify that broadband PCS devices capable of voice transmission or reception must be hearing aid-compatible."² As discussed below, in light of ongoing industry efforts regarding wireless hearing aid

¹ Following its recent merger with the National Association of Business and Educational Radio, Inc. ("NABER"), PCIA represents a broad variety of the wireless industry. The new PCIA is an international trade association created to represent the interest of both the commercial mobile radio service ("CMRS") and the private mobile radio service ("PMRS") communications industries. PCIA's federation of councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

² Petition at 1.

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compatibility (“HAC”), PCIA opposes this request as premature, alarmist, and contrary to the public’s interest in rapid deployment of competitive new services and technologies.

I. INTRODUCTION

On June 5, 1995, HIN filed a petition for rulemaking with the Commission seeking a broadband PCS-specific rulemaking on the issue of GSM telephone compliance. The basis for HIN’s petition is that Section 610 requires the Commission to reassess mobile service hearing aid compatibility (“HAC”) issues. However, HIN fails to acknowledge ongoing industry efforts to address wireless HAC issues in a nonadversarial context without government intervention, and does not proffer proposals of its own for resolving wireless HAC issues in a constructive manner. Instead, HIN exclusively concentrates on speculative claims relating to a single technology in a counterproductive, transparently anticompetitive, and divisive manner.

PCIA shares the Commission’s goal of “making sure that people with disabilities share in the communications revolution.”³ The HIN Petition, however, is needlessly alarmist in suggesting that the Commission and industry are failing to “look” before “leaping” into new technology, and implicitly urging the Commission to delay deployment of highly beneficial new technologies and services in which billions of dollars have been invested. PCIA therefore urges the Commission to dismiss HIN’s request for rulemaking.

³ Chairman Reed E. Hundt, Federal Communications Commission, Keynote Address for the Eleventh International Telecommunications for the Deaf Incorporated (TDI) Convention, (Cambridge, Massachusetts; June 28, 1995).

II. IN LIGHT OF ONGOING INDUSTRY AND FCC EFFORTS, A TRADITIONAL RULEMAKING TO ADDRESS THE ISSUES RAISED BY THE HIN PETITION IS NEITHER APPROPRIATE NOR DESIRABLE

A. Launching a PCS-Specific Proceeding at this Time Will Only Delay the Benefits of Wireless Telecommunications, Harming the Public Interest

Contrary to HIN's statements, the industry is not rushing headlong into deployment without investigating potential compatibility problems. PCIA, in fact, has already formed a compatibility task force that is charged with investigating interference issues. Unlike HIN's petition, this task force is investigating a broad range of electromagnetic interference and compatibility issues with regard not only to GSM technologies, but electromagnetic interference caused by wireless technologies in general. PCIA also understands that other interested industry members have recently initiated a research project in conjunction with the University of Oklahoma that will investigate a broad range of hearing aid/radio frequency compliance issues.

The industry is vitally interested in assuring low cost, high quality access to wireless services by the widest range of subscribers. In pursuit of this goal, wireless carriers and manufacturers have embarked on a number of cross-industry efforts to investigate any potential incompatibilities between hearing aids and mobile telephones. If any incompatibilities are identified, the industry will work, as it has in other contexts in the past, on a collective basis to resolve concerns without the need for government intervention. At this stage, it is premature to bypass the industry process and proceed to a formal rulemaking.

Moreover, in light of the industry's demonstrated commitment to providing accessibility to the broadest range of subscribers, the mere suggestion of arresting the introduction of PCS services pending a rulemaking on this issue is patently unsupportable. Halting PCS deployment at this time will delay needed service to the public at large and will postpone the introduction of further competition in wireless services. Neither of these consequences is in the public interest. Accordingly, PCIA urges the Commission to allow time for collective industry efforts rather than rushing into action based on the speculative need to craft rules addressing a single technology.

B. The Technical and Policy Issues Posed by HIN Are Not Suited for Resolution In an Inflexible Traditional Rulemaking Proceeding

The technical and policy issues posed by HIN are ill-suited for resolution through inflexible and adversarial traditional rulemaking procedures. First, HIN is concentrating on a single RF technology to the exclusion of all others; however, basic compatibility issues are raised with respect to any RF device. As noted in the attachments to HIN's petition, in fact, over one-third of the participants in one of the cited tests previously "had experienced interference from a range of sources including fluorescent lights, car indicators, computer cables, shop door openers and shop security detection units." Working together, the industry and affected parties will have an opportunity to review evidence regarding the most efficient and equitable means of addressing documented problems in a broader context than could be achieved in a traditional rulemaking.

Moreover, while the Hearing Aid Compatibility Act of 1988 does require the Commission to review wireless HAC issues on a periodic basis, the statute sets up a complex balancing of interests. The factors to consider include a generalized “public interest” test, as well as an assessment of “technological feasibility” and a determination that “compliance . . . would not increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.” While the Commission can, and often does, make these kinds of determinations by notice-and-comment rulemaking proceeding, informal consensus-building within the industry appears to be a much simpler vehicle for establishing a constructive dialogue that will allow all interested parties to fashion equitable, and achievable, HAC regulations.

Prior joint wireless industry efforts, such as the numerous Joint Experts Meetings held on a variety of issues,⁴ have demonstrated the benefits and feasibility of industry cooperation to resolve complex, weighty issues. In the present context, where the difficulty of crafting workable HAC regulations in the constrained, adversarial context of a traditional rulemaking proceeding has already been established, industry’s ability to work cooperatively should not be dismissed. PCIA believes any scientifically valid concerns raised by HIN can, will, and should be addressed in a cooperative fashion. PCIA’s members are committed to serving the widest array of subscribers and assuring access to individuals with hearing disabilities. Accordingly, PCIA looks forward to working with the community of individuals with hearing

⁴ Provide examples, E-911, PCS Technical Issues.

disabilities to develop equitable, consensus solutions that expand access without delaying the introduction of new wireless technologies.

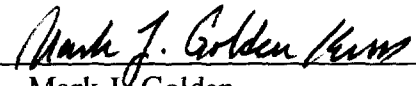
III. CONCLUSION

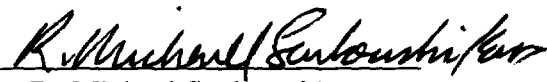
PCIA believes that informal, consensus resolution of wireless HAC issues ultimately will result in far more equitable and practical regulations than could be achieved in a traditional rulemaking before the Commission. PCIA's membership has a demonstrated commitment to the industry process, as well as a significant interest in ensuring that wireless services are available to all. Under the circumstances, PCIA believes wireless carriers and the community of people with hearing disabilities can and will unite to achieve the common goal of affording all Americans access to needed wireless services. Because HIN's petition is divisive, hostile to the goal of cooperation, unreasonably focused on a single technology, and

premature, PCIA asks the Commission to dismiss the petition and defer consideration of any wireless HAC rulemaking until after the respective parties have had sufficient time to reach consensus in more flexible, informal processes.

Respectfully submitted,

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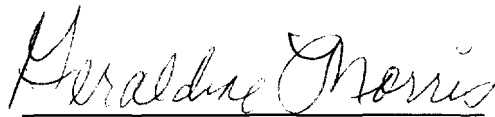
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Dated: July 17, 1995

CERTIFICATE OF SERVICE

I, Geraldine Morris, hereby certify that on this 17th day of July, 1995, these
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